

**Illinois Department of Revenue
Regulations**

**Title 86 Part 130 Section 130.351 Aggregate Exploration, Mining, Off Highway Hauling,
Processing, Maintenance and Reclamation Equipment**

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

**Section 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing,
Maintenance and Reclamation Equipment**

- a) General. The exemption provided in this Section terminated on June 30, 2003, pursuant to P.A. 93-24. P.A. 98-456, effective August 16, 2013, reinstated the aggregate exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used primarily for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily in the activities noted in this subsection. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance and reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, and adhesives), coolants, lubricants, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.
- b) Definitions

- 1) "Aggregate" means any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.
- 2) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, geophysical exploration, excavating, dredging, and drilling to locate aggregate deposits.
- 3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried and sold by a retailer as a single item. An example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.
- 4) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.
- 5) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator.
- 6) "Off Highway Hauling" means carrying or transporting and would include transport of overburden or waste material, including byproduct materials from the processing facility for disposal, transporting aggregates from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles, and conveying aggregates from the beginning of the processing cycle through the last stage of aggregate production, which ends at the time the aggregate is ready for sale.
- 7) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale or the reprocessing of aggregate fines to extract and recycle construction aggregates by the mine owner, or operator, or third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.
- 8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.
- 9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

- 10) "Used primarily" means that the equipment and replacement parts must be used more than 50% of the time in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
- c) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:
- 1) Aggregate is produced in a surface mining operation that begins with locating the aggregate deposit to be mined, clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:
 - A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
 - B) Equipment used primarily to remove overburden and other waste materials from the deposit to be mined.
 - C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents used primarily for surface aggregate mine blasting including, but not limited to, ammonium nitrate and fuel oil or ANFO; equipment used primarily to ignite blasting agents including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.
 - D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage, or frequency of the electric current and transmit the electrical current to aggregate surface mining and processing equipment).
 - E) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the active mine area.

- F) Equipment used primarily to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
 - G) Equipment used primarily to extract aggregate from the earth.
 - H) Unlicensed off highway haulage trucks or a conveyor system used primarily to transport overburden, waste material or aggregate to the processing facility.
 - I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.
 - J) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
 - K) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
 - L) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.
 - M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load aggregate in the pit).
 - N) Computers and electrical control panels integral to and used primarily to operate exempt equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
 - O) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
 - P) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
 - Q) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 2) Aggregate is produced in an underground mining operation that begins with locating the aggregate deposit to be mined, creating access from the surface to

the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:

- A) Geophysical surveying, excavating, and drilling machinery and equipment used primarily to locate underground mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
- B) Equipment used primarily to create access to the aggregate deposit (e.g., drills, equipment to deliver blasting agents, excavators, loaders and tunnel boring equipment) and equipment used primarily to load aggregate on to conveyor belts, trucks or other conveyances used primarily to transport aggregate from the deposit to the processing operation (e.g., loaders).
- C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents (such as ammonium nitrate and fuel oil or ANFO) used for underground aggregate mine blasting; equipment used primarily to ignite blasting agents including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.
- D) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops).
- E) Conveyor belts, trucks or other conveyances primarily used to transport aggregate from the deposit to the processing operation.
- F) The feeder and crusher used primarily to break large pieces of aggregate.
- G) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate underground mining and processing equipment).

- H) Pumps, hoses, piping and discharge apparatus used primarily in the movement or removal of water or to divert water from the underground mine area.
- I) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.
- J) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.
- K) Equipment used primarily to coat mine walls with inert material for loose rock safety.
- L) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems, including the foundations for such equipment as long as those foundations are located within the underground mine.
- M) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.
- N) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
- O) Machinery and equipment used primarily to convey aggregates from the beginning of the processing cycle through the last stage of aggregate production which ends at the time the aggregate is ready for sale.
- P) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
- Q) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.
- R) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that move and load aggregate in the pit).
- S) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

- T) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
 - U) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
 - V) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
 - A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt repair parts or equipment.
 - C) Mobile and overhead cranes and manlifts used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
 - D) Equipment used primarily for dust suppression.
 - E) Equipment and machinery used primarily to clean areas around off-highway conveying and processing machinery and equipment.
- 4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
 - A) Drill rigs used primarily to drill exploration core holes.
 - B) Water trucks used primarily in the drilling process.
 - C) Winch and casing trucks used primarily in the drilling process.
 - D) Field maintenance trucks used primarily to make repairs on exempt field equipment.
 - E) Air compressors used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

- d) Nonexempt Activities. By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:
- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof support to prevent mine collapse;
 - 2) the use of equipment in research and development for new uses of aggregate;
 - 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;
 - 4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;
 - 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance and reclamation operation;
 - 6) the use of facilities for storing aggregate after extraction and processing;
 - 7) the use of front-end loaders, cranes, conveyors and equipment used primarily to load aggregate onto trucks, railcars or barges for delivery to customers;
 - 8) the use of concrete foundations and support structures for ventilation equipment used above ground.
- e) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 1) For the exemption to apply, the purchaser need not, himself, or herself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will

be eligible for the exemption. A supplier may exclude these sales from taxable gross receipts if the purchaser-lessor provides the supplier with a properly completed certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee.

- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption, the purchaser-lessor will become liable for the tax that he or she previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.

f) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see 86 Ill. Adm. Code 130.330 and 130.331). Purchasers claiming the exemption under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 38 Ill. Reg.17421, effective July 31, 2014)